

**LYNCHBURG CITY COUNCIL
Agenda Item Summary**

MEETING DATE: **January 14, 2003**

AGENDA ITEM NO.: **10**

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Conditional Use Permit (CUP) – Temple of Deliverance Church, 1040-1042 Florida Ave.**

RECOMMENDATION: Approval of the requested CUP.

SUMMARY: Temple of Deliverance Church is petitioning for a Conditional Use Permit at 1040-1042 Florida Ave. to allow the use of an existing building as a church with associated parking in an R-3, Two-Family Residential District. The Planning Division (PD) recommended approval of the CUP because:

- ? Petition agrees with the Comprehensive Plan, which recommends a Traditional Neighborhood use for the subject property.
- ? The Comprehensive Plan encourages the reuse of existing structures where appropriate.
- ? Petition agrees with Zoning Ordinance in that a church is a permitted use in an R-3, Two-Family Residential District upon approval of a CUP by the City Council.
- ? Petition proposes the use of an existing nonconforming structure for use as a church that should not be detrimental to the neighborhood.

Section 35.1-15(f) of the Zoning Ordinance states: "In approving a conditional use permit City Council may impose any conditions which it deems necessary or appropriate."

PRIOR ACTION(S):

December 11, 2002: Planning Division recommended approval of the CUP.
Planning Commission recommended approval (5-0 with 2 members absent) of the CUP with the following conditions:

1. The property will be developed in substantial compliance with the site plan prepared by Hurt & Proffitt, Inc. dated November 25, 2002.
2. The building will meet all building code requirements as determined by the Inspections Division.
3. A street vacation request will be submitted and approved by the City Council prior to occupancy of the building.
4. A subdivision plat will be submitted and approved vacating all interior lot lines.

FISCAL IMPACT: N/A

CONTACT(S):

Rachel Flynn / 847-1508, ext. 253
Tom Martin / 847-1508, ext. 226

ATTACHMENT(S):

- ? Resolution
- ? PC Report
- ? PC minutes
- ? Site plan
- ? Narrative

REVIEWED BY: lkp

RESOLUTION

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO TEMPLE OF DELIVERANCE CHURCH FOR USE OF THE PROPERTY AT 1040 – 1042 FLORIDA AVENUE AS A CHURCH SANCTUARY WITH ASSOCIATED PARKING, SUBJECT TO THE FOLLOWING CONDITIONS.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG That the petition of Temple of Deliverance Church for use of the property at 1040 – 1042 Florida Avenue as a church sanctuary with associated parking be, and the same is hereby, approved, subject to the following conditions:

1. The property will be developed in substantial compliance with the site plan prepared by Hurt & Proffitt, Inc. dated November 25, 2002.
2. The building will meet all building code requirements as determined by the Inspections Division.
3. A street vacation request will be submitted and approved by the City Council prior to occupancy of the building.
4. A subdivision plat will be submitted and approved vacating all interior lot lines.

Adopted:

Certified:

Clerk of Council

006L

The Department of Community Planning & Development

City Hall, Lynchburg, VA 24504 434-847-1508

To: Planning Commission
From: Planning Division
Date: December 11, 2002
Re: **CONDITIONAL USE PERMIT (CUP): 1040 – 1042 Florida Avenue**

I. PETITIONER

Bishop A. L. Hogue, Temple of Deliverance Church, 1515 8th Street, Lynchburg, VA 24501

Representative: Ms. Tracey Norvelle, Hurt & Proffitt, Inc., 2524 Langhorne Road, Lynchburg, VA 24501

II. LOCATION

The subject property is a tract of about 3.0 acres located at 1040 – 1042 Florida Avenue.

Property Owners: James & Carenthia Nowlin, 2120 Florida Avenue, Lynchburg, VA 24501

III. PURPOSE

The purpose of this petition is to allow the use of an existing structure as a church with associated parking in an R-3, Two-Family Residential District.

IV. SUMMARY

- ✍ Petition agrees with the Comprehensive Plan which recommends a Traditional Residential Use for the subject property.
- ✍ Petition agrees with the Zoning Ordinance in that a church is a permitted use in an R-3, Two-Family Residential District upon approval of a Conditional Use Permit by the City Council.
- ✍ Petition proposes the use of an existing nonconforming structure for use as a church that should not be detrimental to the neighborhood.

The Planning Division recommends approval of the CUP petition.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends a Traditional Residential Use for the subject property. Traditional neighborhoods are described as those built prior to World War II, and that do not conform to current standards of setbacks, lot sizes and building heights. Large public or institutional uses are typically not appropriate for these areas. The petition as submitted proposes the use of an existing nonconforming building for use as a church. A small church such as the one proposed by the petitioner could be an appropriate use in a traditional residential neighborhood. Any large expansion of the proposed use beyond that of this petition should be discouraged unless careful consideration is given to design and landscaping.
2. **Zoning.** The subject property was annexed into the City in 1908. The property was zoned for industrial and light business uses until 1960 when a small portion of the property was zoned for a two-family residential use. The existing R-3, Two-Family Residential zoning was established in 1978 with the adoption of the current *Zoning Ordinance*.
3. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the proposed church or parking additions.
4. **Surrounding Area.** There have been no items requiring City Council approval in the immediate area.
5. **Site Description.** The subject property is bounded to the north, east and south by vacant land. The subject property is bounded to the west by single-family residential uses.
6. **Proposed Use of Property.** The purpose of the CUP is to allow the use of an existing structure as a church with associated parking in an R-3, Two-Family Residential District.
7. **Traffic and Parking.** The City's Traffic Engineer's only comment of concern was that the petitioner addresses the issue of the building encroaching into the right of way of Florida Avenue. City tax maps do not reflect this encroachment, however it is shown on a survey prepared by Hurt & Proffitt in 1992. A street vacation request will be required to rectify this encroachment, and the City's Traffic Engineer has no comments of concern regarding this issue.

8. **Storm Water Management.** A storm water management plan will not be required for the use of the existing structure as a church, because disturbed areas will not exceed 1,000 square feet.
9. **Impact.** Temple of Deliverance Church is currently located at 2057 Garfield Avenue and currently has approximately twenty-two (22) members. Activities and services are proposed on various days of the week.

The current submittal proposes the use of an existing building for a church with a sixty (60) seat sanctuary. The building had been previously used as a restaurant, but has been vacant for a period of eight (8) to ten (10) years. A twenty (20) space parking area is proposed on an existing gravel lot adjacent to the existing building. Landscaping in the form of street trees, shade trees within the parking area, and foundation plantings are proposed.

The petitioner proposes to use the existing building with little or no interior renovations. The Inspections Division has requested that a floor plan be submitted showing proposed exits, locations of manual fire alarms, restroom facilities and emergency lighting prior to any building permits being issued. These items need to be addressed to determine if the facility will meet building code requirements for a place of assembly. The petitioner has contacted an architect to prepare this information, but the information had not been submitted to the City at the time this report was written.

The total assessed value of the subject property is \$18,700. A total of \$301 in real estate taxes will be lost annually if the property is converted to a church use.

10. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on November 19. Comments related to the proposed use were minor in nature and have or will be addressed by the developer prior to final site plan approval.
11. **Conditions.** According to Section 35.1-15 (f) of the Zoning Ordinance, the Planning Commission or City Council may impose any conditions deemed necessary of appropriate in approving a CUP.

VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council approval of the petition of Temple of Deliverance Church for a conditional use permit at 1040-42 Florida Avenue for the use of an existing building as a church sanctuary with associated parking in an R-3, Two-Family Residential District subject to the following conditions.

1. **The property will be developed in substantial compliance with the site plan prepared by Hurt & Proffitt, Inc. dated November 25, 2002.**
2. **The building will meet all building code requirements as determined by the Inspections Division.**
3. **A street vacation request will be submitted and approved by the City Council prior to occupancy of the building.**
4. **A subdivision plat will be submitted and approved vacating all interior lot lines.**

This matter is respectfully offered for your consideration.

William T. Martin
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Rachel O. Flynn, Director of Community Planning & Development
Mr. Bruce A. McNabb, Director of Public Works
Mr. John W. Jennings, Fire Marshal
Ms. Judith C. Wiegand, Strategic Planner
Mr. J. Lee Newland, Director of Engineering
Mr. Gerry L. Harter, Traffic Engineer
Mr. Karl Cooler, Building Commissioner
Mr. Arthur L. Tolley, Zoning Official

Mr. Robert S. Fowler, Zoning Official
Ms. Tracey Norvelle, Petitioner/Representative

VII. ATTACHMENTS

1. Vicinity Zoning Pattern

(see attached map)

2. Vicinity Proposed Land Use

(see attached map)

3. Site Plan

(see attached site plans)

4. Narrative

(see attached narrative)

5. Plat dated 1992

(see attached plat)

Petition of Temple of Deliverance for a Conditional Use Permit at 1040-42 Florida Avenue for the use of an existing structure as a church sanctuary with associated parking in an R-3, Two-Family Residential District.

Mr. Martin said the current plan proposed a 60-seat sanctuary in an existing building with 20 parking spaces. He said the Comprehensive Plan recommended a traditional residential use for the subject property, which is described as structures built prior to World War II which do not conform to setbacks or requirements of the existing Zoning Ordinance. He said typically large public or institutional uses were not recommended for these traditional neighborhood areas, but a smaller church, such as the one proposed, would be appropriate and should not have any problems fitting into the area. Mr. Martin said the plan had adequate landscaping, and the only concern brought forward during the TRC process was a right-of-way issue on Florida Avenue. He continued by saying that the City Traffic Engineer did not have any problems with vacating the right-of-way, but would have to be taken care of prior to the occupancy of the building. Mr. Martin said the total assessed value of the property was \$18,700, and with the conversion of the property to a church use, there would be an annual loss of \$301 in real estate taxes. He noted that the property had been vacated for approximately 8 – 10 years.

Ms. Tracey Norvelle, Hurt and Proffitt, Inc., represented the petitioner. Ms. Norvelle added that the pastor of the Church was also in attendance and would speak later. Ms. Norvelle explained that this was an existing building that had been vacant for several years. She said there was currently a gravel parking lot that would be defined by using curb stops and installing landscaping around the site. Ms. Norvelle said they had already started the process to vacate the right-of-way and was working on the application to the Clerk of Council to move forward as quickly as possible.

Reverend Hogue, 1515 Eighth Street, pastor of Temple of Deliverance, addressed the Planning Commission. Rev. Hogue said they had been looking around the City for a site to purchase as a permanent location for their Church. She said they found this site and were happy to be lead to it. She said they understood the obstacles that they had to overcome due to the building being in the right-of-way of Florida Avenue, but they were willing to go forward. She said they believed that the neighborhood would be benefited as well as the total environment, and added that they wanted to help the youth of the area.

Commissioner Moore asked Reverend Hogue if the Church would be able to meet all building code requirements of the City prior to occupancy as stated in the Conditions of the motion.

Reverend Hogue said the Church was going through everything they needed to go through to make this site a reality for them.

Chair Dahlgren asked Reverend Hogue what type of surface would be applied to the parking lot and if she had heard from any of the neighbors concerning the Church's plans.

Reverend Hogue said the parking lot currently has a grave surface and would remain gravel. She added that comments from the neighborhood and around the City were supportive of their plans.

Mr. Martin said if the Church ever decided to pave the parking lot, then the City would have to review stormwater issues.

Commissioner Flint voiced his support of the petition and said the Church would help the neighborhood and youth in the area.

After further discussion, Commissioner Worthington made the following motion, which was seconded by Commissioner Moore and passed by the following vote:

"That the Planning Commission recommends to the City Council approval of the petition of Temple of Deliverance Church for a conditional use permit at 1040-42 Florida Avenue for the use of an existing

building as a church sanctuary with associated parking in an R-3, Two-Family Residential District subject to the following conditions.

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| | | |
|--------------|--|---|
| AYES: | Dahlgren, Flint, Moore, Pulliam, Worthington | 5 |
| NOES: | | 0 |
| ABSTENTIONS: | | 0 |

TEMPLE OF DELIVERANCE

1040-42 Florida Avenue
 Val. Map # 048-01-003, 048-05-001.41
 Conditional Use Permit Request
 Petitioner: Bishop A.L. Hogue

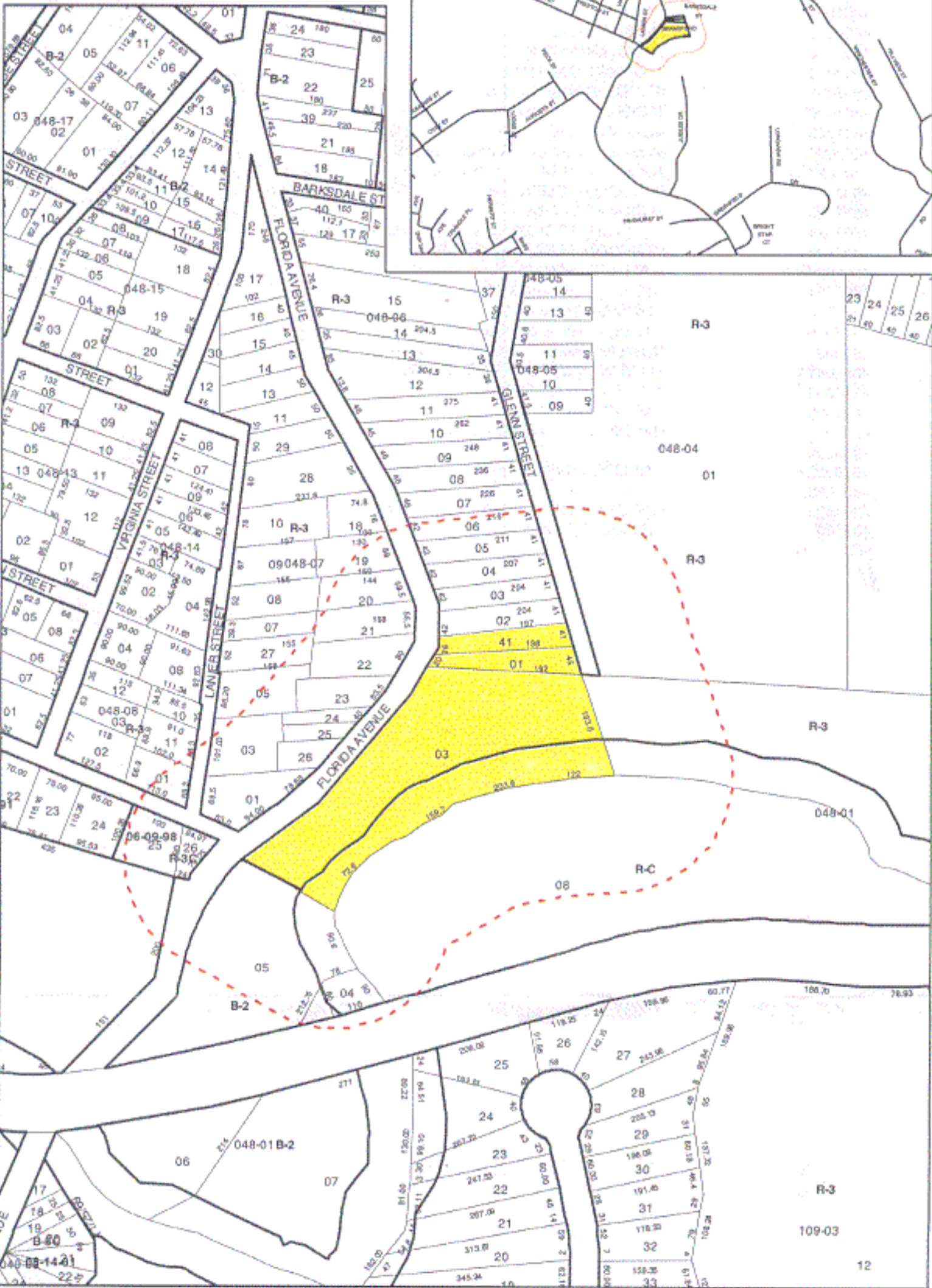
MAP PREPARED BY
 THE DEPARTMENT OF COMMUNITY PLANNING & DEVELOPMENT



Subject Property



200 ft Radius





TEMPLE OF DELIVERANCE

Project # 20020589
November 25, 2002

Temple of Deliverance is preparing to move to 1042 Florida Avenue and occupy a vacant building for their church. Parking exists but we are proposing wheel stops to define the parking. A Conditional Use Permit is required because the building is in a R-3 zone and a variance was determined to not be required.

Temple of Deliverance was started in Lynchburg 13 years ago. Its current site is 2057 Garfield Avenue. They currently have approximately 22 attending members.

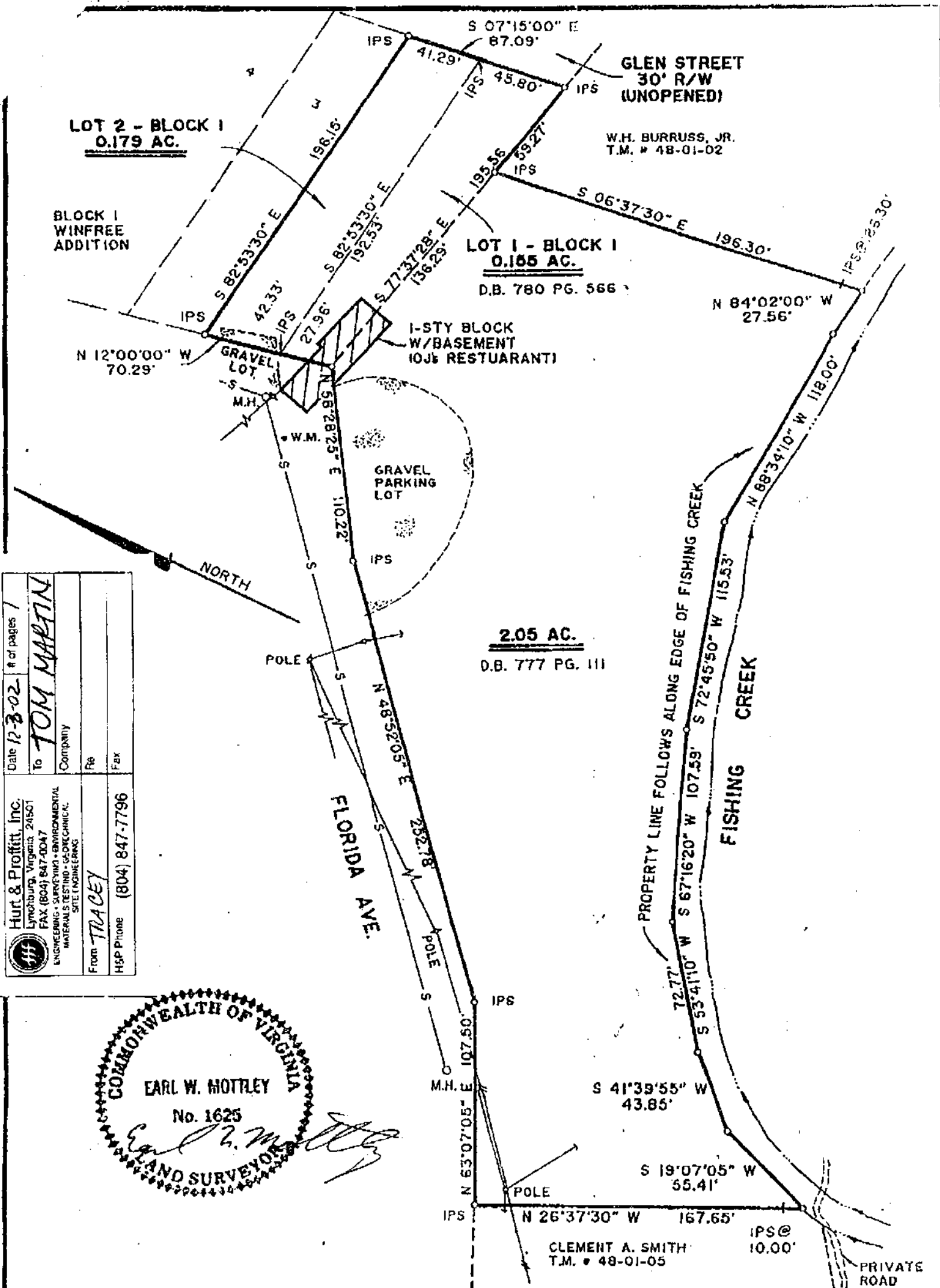
The church sanctuary will have a seating capacity of 60, and according to current City Ordinance, this will require 20 parking spaces.

Temple of Deliverance holds a 10:00 sunday school and 11:30 church service that lasts to approximately 12:45. They sometime hold an evening service around 4:00. Wednesday's the church has a youth bible study at 6:00 and adult bible study at 7:00. This lasts to approximately 9:00. Thursday's they have choir practice at 6:30 and this lasts to approximately 8:00. Friday's they have prayer from 7:00 to approximately 8:30. They sometimes have services on Saturday's and the service times vary.

RECEIVED

NOV 25 2002

**COMMUNITY PLANNING
& DEVELOPMENT**



Hurt & Proffitt, Inc.
Engineers • Surveyors
2524 LANGHORNE RD.
LYNCHBURG, VA 24501
Phone 804 847-7796

PLAT SHOWING
THE PROPERTY OF

J.R. NOWLIN et al

CITY OF LYNCHBURG,

VIRGINIA

COMM. NO. 910419

DATE: 4/12/91

REV. 4/2/92

G.L. NO. 229-14-D4.3

F.B. NO.

FILE NO. L-2763 (B)

GRAPHIC SCALE

60 30 0 60 120